

CAMPBELL COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION
MARCH 13, 2012
7:00 PM
AGENDA

1. Meeting called to order
2. Roll call and determination of quorum
3. Approval of the February 14, 2012 minutes
4. **SUBDIVISION:** 37-12-PPD-04
APPLICANT: Smith Morgan Jolly Properties (Kings Run Subdivision)
LOCATION: A 69.9-acre area along the south east side of Kensington Drive and the south side of State Route 154, Unincorporated Campbell County.
REQUEST: To approve a Preliminary Plat consisting of three (3) lots, with no public improvements.
5. Director's Report
6. Adjournment

**IF YOU CANNOT ATTEND THE MEETING,
PLEASE CALL THE P&Z OFFICE AT 859-292-3880**

The Commission will make every reasonable accommodation to assist qualified persons attending the meeting, if there is a need for the Commission to be aware of, contact the office.

**CAMPBELL COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION
MINUTES OF THE MARCH 13, 2012 MEETING**

MEMBERS PRESENT:

Mr. Larry Barrow
Mr. Dennis Bass
Mr. Tony Pfeffer
Mr. Edward Stubbs
Mr. Michael Williams, TPO
Mr. Justin Verst, Vice Chair
Ms. Cindy Minter, Chair

MEMBERS ABSENT:

Ms. Deborah Blake
Ms. Lauri Harding

STAFF PRESENT:

Mr. Peter Klear, AICP, Director of Planning & Zoning
Mr. Matt Smith, Legal Counsel
Mr. Ryan Hutchinson, Planner
Ms. Stephanie Turner, Secretary

Ms. Minter called the meeting to order at 7:05 PM. Following roll call, a quorum was found to be present. Ms. Minter asked if everyone had reviewed the February 14, 2012 meeting minutes and asked if there were any additions or corrections. Mr. Smith stated he wanted to make a clarification for the record. At one point in the meeting, he was asked if the Commission could limit the number of messages displayed on the billboard and Mr. Smith felt that would be a content based regulation of speech and that the Commission would not be allowed to do it. A question came up later in that same meeting could we essentially prohibit a dual display board or split screen board and on that question, Mr. Smith felt this would be allowed. It would be a content neutral regulation. You are not making a decision based on content, but the Commission is free to have regulations on the width, height and size of signs. Mr. Smith just wanted to clarify this because in reading the minutes he wasn't sure that was clear to the Commission. Mr. Klear identified for the Commission that Mr. Smith was speaking of page 4, line 50 of the minutes. Mr. Williams asked Mr. Smith to further clarify his comments. Mr. Smith gave an example that our regulations cannot say that the applicant must limit their message to one message or a limit of three messages per display board, because that is regulating content. Another question arose that if the digital reader sign covered the entire area of the sign, could we prohibit someone from splitting the billboard to have multiple signs. In Mr. Smith's opinion, the Commission could do this. Mr. Williams asked wouldn't this be allowed to be denied by the Commission anyway because it would be considered more of a safety issue because the drivers would be spending too much of their attention on the sign and not on road safety. Mr. Smith stated that would depend on the speed of the vehicle, how fast the sign rotates, and how fast the message rotates. The way you regulate that is by stating how fast the message can cycle. Ms. Minter thanked Mr. Smith for his comments. Mr. Klear stated he thinks Mr. Smith's elaboration covers it, but asked Mr. Smith if there were any part of the minutes that he wished to see amended. Mr. Smith stated the minutes were acceptable as submitted. Ms. Minter asked again if there were any additions or corrections to the minutes. There being none, Ms. Minter called for a motion. Mr. Williams made a motion to approve the February 14th meeting minutes as submitted. Mr. Barrow seconded the motion. A roll call vote found Mr. Barrow, Mr. Bass, Mr. Pfeffer, Mr. Stubbs, Mr. Williams and Mr. Verst in favor of the motion. Ms. Minter abstained. Motion passed.

Ms. Minter introduced case #37-12-PPD-04, Kings Run Subdivision, submitted by Smith Morgan Jolly Properties and asked Mr. Hutchinson to present the staff report and staff's recommendation to the Commission.

SUBDIVISION: 37-12-PPD-04
APPLICANT: Smith Morgan Jolly Properties (Kings Run Subdivision)
LOCATION: A 69.9-acre area along the south east side of Kensington Drive and the south side of State Route 154, Unincorporated Campbell County.
REQUEST: To approve a Preliminary Plat consisting of three (3) lots, with no public improvements.

Considerations:

1. The 2008 Campbell County Comprehensive Plan Update designates the site for Agricultural and Rural Uses. The Campbell County Zoning Ordinance classifies the plat within the A-1 Zone, an Agricultural One Zone, requiring a minimum lot size of one acre, lot widths of 100 feet, minimum front setback dimension of 50 feet, side yards of 10 feet (one side) and 25 feet (total both sides), and a minimum rear yard depth of 35 feet, not including flag lots and/or mobile home lots.
2. Review of the Preliminary Plat in accord with the Comprehensive Plan, Zoning Ordinance and Subdivision Regulations results in the following issues:
 - a) The Plat indicates a proposal to re-subdivide a 69.9-acre area along the east side of Kensington Drive and the south side of State Route 154 (Peach Grove Road) for the creation of 3 lots, with no public improvements.
 - b) This property was a part of a larger subdivision (case #37-08-PPD-01) that was only partially completed. That completion occurred off Kensington Drive further north and west.
 - c) The plat indicates all 3 lots will have frontage on St. Rt. 154 and one lot (#7) will also have frontage on the internal street Kensington Drive.
 - d) The Plat indicates a 30' a foot of right-of-way exists along State Route 154.
 - e) The Plat shows an existing house and several barns/sheds on the property.
 - f) County records indicate centralized sanitary sewers are not available for this area. Notation on Plat indicates that on-site sewage disposal systems will be utilized subject to Health Department approval.
 - g) The Plat shows the overhead electrical lines running east to west parallel to State Route 154.

Recommendation for Preliminary Plat:

To approve a Preliminary Plat for the Kings Run Subdivision, subject to the following conditions:

1. That driveway spacing requirements be followed along State Route 154.
2. That the setback dimensions for the existing structures on Lot #8 be shown on a revised drawing.
3. That the proposed walking trail be installed and placed within a public easement for ingress and egress prior to approval of a final plat.
4. That the subdividers install an appropriate turnaround at the end of Kensington Drive. The design shall be submitted to staff for review and approval prior to installation. The design shall maintain a 50' wide right-of-way.

Bases for Recommendation for Preliminary Plat:

The proposed subdivision is consistent with the recommendations of the 2008 Campbell County Comprehensive Plan Update, the Campbell County Subdivision Regulations and Zoning Ordinance, except as noted below:

1. CAMPBELL COUNTY SUBDIVISION REGULATIONS SECTION 6.0E states: "Minimum Sight Distance shall be as required in Appendix F, Tables 7a and 7b." The proposal is to provide an intersection along State Route 154 that does not comply with the minimum standards of the Campbell County Subdivision Regulations. This will create the potential for a serious vehicular safety problem, in staff's opinion;
2. CAMPBELL COUNTY SUBDIVISION REGULATIONS SECTION 6.1 E.2 states: "The number of intersections with collector streets shall be held to a minimum. Wherever practicable, such intersections shall be spaced not less than 400 feet apart."
3. CAMPBELL COUNTY SUBDIVISION REGULATIONS SECTION 7.3 H states: "Cul-de-sac courts and dead-end streets shall be designed in accordance with the typical design details as per Appendix C of these regulations. However, if conditions warrant, other turn around designs may be permitted by the planning commission. If such street is of a temporary nature and a further extension into adjacent land is anticipated, then said turn around, beyond normal street width, shall be in the nature of an easement of the premises included in said turn around, as per the typical design in Appendix C. Such easement may be vacated to abutting property owners when said dead-end street is legally extended into adjacent land. If such dead-end street serves four (4) lots or less, no temporary turn around will be required."
5. CAMPBELL COUNTY ZONING ORDINANCE SECTION 9.10, C, states: "Accessory structures and uses shall not be permitted within any required minimum front yard or side yard (on each side of the lot) in any zone. Accessory structures and uses may be permitted to extend into the minimum rear yard areas, as defined herein, in all zones, provided that such structures are set back from the rear lot line, and required minimum side yard clearances are maintained. Location of off-street parking, loading, and/or unloading areas, fences, and signs are governed by their respective sections, as herein provided. D. Except as herein provided, accessory structures and uses shall not be permitted within any required minimum front yard or side yard (on each side of the lot) in any zone. Accessory structures and uses may be permitted to extend into the minimum rear yard areas, as defined herein, in all zones, provided that such structures are set back from the rear lot line, and required minimum side yard clearances are maintained. Location of off-street parking, loading, and/or unloading areas, fences, and signs are governed by their respective sections, as provided herein."

Additional Information (previous conditions that still apply from case #37-08-PPD-01)

1. That Sight Distances (Right and Left) for vehicles exiting the proposed intersection with State Route 154 be in accord with 2004 AASHTO (American Association of State highway and Transportation Officials) design standards. Sight Distance measurements shall be clearly indicated on subsequent Improvement Drawings and Specifications.
2. That driveway spacing requirements be followed along State Route 154.
3. That the setback dimensions for the existing structures on Lot #10 be shown on the Final Plat and comply with the Campbell County Zoning Ordinance.
4. That the proposed walking trail be placed within a public easement for ingress and egress.

5. The original preliminary plat #37-08-PPD-01 was submitted with sidewalks on one side of the street. The Commission approved this case with the condition that a walking trail be constructed. This was a compromise to only having sidewalks on one side of the street.

Mr. Hutchinson reiterated that the applicant has marked the trail head, but that staff wants to make sure that the rest of the trail goes in. Mr. Hutchinson asked if there were any questions he could answer for the Commission. Mr. Verst asked for clarification if the walking trail was being installed in the new section or the existing subdivision. Mr. Hutchinson stated it was not shown on this portion of the preliminary plat for the new section, but it was approved on the previously submitted plat. Mr. Verst asked if it was reflected on the previous section that was platted. Mr. Hutchinson stated it was shown on the previous section that was platted, but it was never installed. Staff just wants to see the completion of all items that were approved previously as well as what they are asking for tonight. Mr. Verst stated that the previous section would have shown the trail going somewhere back out into the street, but for this section, it is just shown with a dead end on lot 7. Mr. Hutchinson stated that was correct. The applicant has a ten foot easement in place for the nature trail reflected on the drawings. Ms. Minter asked Mr. Hutchinson to go to a previous slide which he did. Mr. Hutchinson pointed out Kensington Way on the slide, land additions to other land owners and the remaining lots now reflected in this new section.

Mr. Verst stated he was trying to figure out if the plat was approved if the Commission should just allow the nature trail to dead end at lot 7 or should there be a requirement to pull it back out to the street or a sidewalk. Mr. Hutchinson stated that dead ending it is as it was proposed, but he did not discuss this with the applicant. Ms. Minter asked about the shape of the proposed lots. They are not uniform in shape and Ms. Minter was trying to discern if they followed any type of geographic conditions on site. Mr. Hutchinson replied that this was really question for the applicant because lot 9 seems to follow a creek line, but there was no other distinguishing factors to determine how the shape or size of lots were divided.

Mr. Verst asked about the turn around at the end of the street. With the number of lots there, would it fall within the normal regulations for a cul-de-sac size and construction? Mr. Klear stated that the reason this turn around is structured this way is because Kensington Drive was not supposed to dead end. When the plat was originally approved, that road was going to continue. Based on the number of lots they serve, they could conceivably get by with something much less. We are being proactive because what is currently lot 7 could be further re-subdivided back into what the Commission saw back in 2008. Staff wants to maintain that fifty foot right of way to accommodate that potential. Mr. Verst stated he knew there was a cut off point where they could get away with something smaller, but he didn't know what that point was. Mr. Hutchinson stated there were currently eleven lots touching Kensington Way and the cut off point is seven lots to not have any turn around at all. Mr. Klear stated it depends on how you count the number of lots and there is a lot of ambiguity, so staff opted to remove all confusion and recommend that a fifty foot right of way be maintained. Mr. Verst stated he was satisfied with the way staff had written it.

Ms. Minter asked if there were any additional questions for staff. There being none, Ms. Minter asked the applicant or their representative to come forth and identify themselves for the record. Mr. Joe Kramer, Cardinal Engineering, came forward. Mr. Kramer stated that Phase I was completed several years ago with the idea that marketing of the sites would quickly follow. Due to the market tanking, there just have not been the interest and sales that the client anticipated for these sites. There has been more interest in larger estate size lots. Mr. Kramer stated his client has contracts for sale for both lots 8 and 9. With all the unknowns, we left lot 7 alone with the potential to either sell as a large estate lot or to develop into smaller lots as the market would allow. We can come before the Commission again at a later date to revise the plat for lot 7 based upon what the future holds. Mr. Kramer stated what is before the Commission tonight is a traditional single family development with a public street that dead ends into lot 7 and then lots 7, 8 and 9 are your large acreage, horse farm type tracts. They can be a gentleman's horse farm or whatever. Mr. Kramer addressed Ms. Minter's question of how the lot design was determined. There were two factors: lot 8 has a barn that the buyer wanted and all the outbuildings that are associated it and the lake and the buyer of lot 9 agreed to the boundary with the buyer lot 8.

Mr. Kramer reviewed the conditions stated in the staff report. His client fully agrees with conditions 1 and 2. Mr. Kramer stated they need clarification on conditions 3 and 4. On condition #4, Mr. Kramer will work with staff to determine what kind of turn around is needed and is assuming that the turn around can be bonded. His client wants to be able to close on the lots with their buyers as soon as possible and doesn't want the construction of the turn around to delay that closing. As long as staff is acceptable with them bonding the turn around until construction season can schedule a team to go onto the site to construct the turn around to staff's satisfaction, then Mr. Kramer and his client agree completely with condition 4. Mr. Klear stated that would be satisfactory to staff.

Mr. Kramer stated that, in regard to condition#3, he is going to break it in to two parts. The lack of the walking trail on lot 7 and the future development was deliberately excluded from this plat. The trail was not placed on lots 8 or 9 since the buyers had no interest in having a public walking trail across the back portion of their lots. Those lots are rural in nature and could be fenced in for horses or farming so it just didn't make sense to extend the trail anywhere onto these three lots. If possible, a buyer of lot 7 or his client could decide to develop lot 7 further. If that occurs, Mr. Kramer stated he will be right back in front of the Commission to show those lots and can attach to the trail at that time, but it didn't make sense to hinder lots 7, 8 or 9 at this time since they are just acreage tracts right now. The trails just don't work when you are trying to market these lots to buyers.

Mr. Kramer continued that the existing lots that were plotted reflect the ten foot easement across those lots. Mr. Kramer is unclear of what exactly staff's expectation was of what the trail is to consist of. It is Mr. Kramer's thought that it was not to be paved, but it does have to be marked. It is currently marked and mowed by the client. What does staff want to see to consider the trail complete? Mr. Klear stated it was not staff's expectation for the trail to be paved; however, staff clearly anticipated some type of treatment whether it is a mulch bed or something to demarcate that this was a trail system. Mr. Kramer stated that given where his client is today, the trail seemed a great trade-off to keep from having to do a sidewalk on both sides of the street at the time, but given where we are at, would the Commission entertain the idea of returning to sidewalks and leaving the trail alone?

Mr. Williams asked what the length of the trail was. Mr. Verst and Mr. Klear suggested it was approximately 1,500 feet currently. Mr. Kramer agreed with their estimate. Mr. Verst asked if any of the lots had been sold. Mr. Kramer replied that the very first lot on the left of E. Nagel Road at Kensington Way had been purchased, but has not been built upon. Ms. Minter asked if there were sidewalks along one side of Kensington as it exist today. Mr. Kramer replied there were no sidewalks at this time. Sidewalks are typically built after the builder has constructed the home to prevent destruction by the home building activity. There only exists a small stretch of sidewalk at the beginning of the community where the entry sign has been constructed.

Mr. Barrow asked Mr. Kramer to confirm that he was proposing that instead of building a nature trail the applicant wanted to install sidewalks along both sides of Kensington Way all the way down to Nagel Road. Mr. Kramer stated that was correct. The sidewalks would be installed after home building activity occurred on each lot. Given the small number of residential lots that would be served by the trail with this change in the plat, the trail no longer seems effective or attractive. Mr. Verst asked if the owner of lot 1 had been asked if he had any objections to the removal of the natural trail from the plat. Mr. Kramer admitted that he doesn't think the idea was run by him, but doesn't feel that he would care about this change.

Mr. Jeff Smith, the applicant, asked to comment and was recognized by Ms. Minter. Mr. Smith stated that Mr. Terry Jolly owned lot 1 and while Mr. Jolly was not advised of the possible removal of the nature trail Mr. Jolly would not be concerned by it as the nature trail does not affect his property. Mr. Smith stated that he has had prospective buyers who were turned off by the nature trail.

Ms. Minter asked Mr. Hutchinson if he had any comments to add. Mr. Hutchinson stated he was just thinking about the lots that Philip and Joy Smith now own. There were parcels that were transferred to Philip and Joy Smith through land additions and now they are not considered part of this subdivision. How is this going to affect the sidewalks going along Kensington Way if they are not owned by the applicant and are not part of the subdivision? Is there going to be a gap in the sidewalk along the length of their property? Mr. Kramer stated that Philip and Joy Smith were co-applicants. For this preliminary plat, they basically pulled all the land that was not developed and put it onto this plat. The previous preliminary plat had expired.

Mr. Williams stated he doesn't really see the need for a walking trail that is only 1,500 feet long. Mr. Verst added especially one that was only going to serve eight lots. Mr. Barrow added that only about five lots would really be using it compared to 2,000 feet of sidewalk. Mr. Verst stated it would also be more dynamic if there was a forest there or a nature preserve feature, but the nature trail dead ends. To Mr. Verst, it did not appear to be an appealing feature to the community. Mr. Klear stated that when this subdivision was originally presented to the Commission, there were approximately forty lots on the preliminary plat. The nature trail was an important issue for the Commission. It didn't make sense to have sidewalks on both sides of Kensington Way, but the nature trail would be an amenity that would be attractive to the people in this community. It was a big deal and there was a lot of discussion among the Commission to reach a point to allow the previously submitted plat with the nature trail. Mr. Matt Smith asked the intention at that time for who was going to be maintaining the nature trail. Mr. Klear replied that maintenance was not spelled out. Mr. Matt Smith asked if we know now if there is a joint easement agreement, a homeowner's association or something to maintain the trail. Mr. Klear replied that information has not come in to staff. Mr. Matt Smith replied that when you are talking about a community of forty lots, the nature trail would be a huge amenity, but when you are looking at eight lots and you are faced with the maintenance of that trail, the trail may not make the same amount of sense. Mr. Verst commented that Mr. Kramer admitted that lot 7 could easily turn back into another fifteen lots, but at this point, there is just no way to tell.

Ms. Minter recognized Mr. Kramer. Mr. Kramer stated that if they were going to leave the nature trail there, and that's a real possibility, if the time came to subdivide lot 7 and there were sidewalks on both sides of Kensington Way, then likely we would not do the trail at that point and would continue with the sidewalks down both sides of Kensington Way. Mr. Kramer also advised the Commission that a homeowner's association was established to maintain the nature trail, but no properties or funds were transferred into it. Given the small number of lots, the applicant is not certain if the homeowner's association is going to continue to exist. The nature trail was the only amenity that needed to be maintained. Mr. Klear stated the Subdivision Regulations call for sidewalks down both sides of the street and the nature trail was a deviation from the regulations. If the Commission were inclined to allow the applicant to go back to sidewalks on both sides of the street and forget the nature trail, there would not be any special action needed on the Commission's part.

Mr. Barrow stated that even if they put the sidewalks in, they would have more walking area than the nature trail. Mr. Klear stated that the sidewalks would be put in after the home building activity has taken place; however, staff would ask that the Commission require the applicant to bond the sidewalks so that they can proceed with their closings and can continue to wait until the time that the home building activity had occurred, but the Commission has the assurance from the bond that the funds are in place to make certain that those sidewalks will go in. Mr. Kramer stated that the Subdivision Regulations do not require you to post bond until the sidewalks are installed. His clients are not prepared to bond the sidewalks. Mr. Kramer stated that as an engineer he has not bonded sidewalks in Campbell County. The problem with bonding is that the home builders don't care what state they leave the sidewalks in because they know there's a bond in place to fix any shoddy workmanship. You would be asking us to do something outside the regulations. Mr. Klear argued that the sidewalks are the responsibility of the subdivider. As a matter of convenience, staff has delayed the installation of the sidewalks until after home building activity has occurred, but they are a subdivision improvement. Mr. Matt Smith asked if a certificate of occupancy could be issued if the sidewalk was incomplete. Mr. Klear replied absolutely. Mr. Kramer asked if it was

conditional. Mr. Klear replied they do issue conditional certificate of occupancies if the sidewalk was not in place as long as no other major deficiencies existed. Mr. Kramer stated he was not aware of anyone who did that. Holding that certificate of occupancy over the home builder's head is the leverage you have to get the sidewalk installed to your satisfaction. Mr. Klear replied that was correct. The sidewalk is the last thing that goes in and our Building Department tries to work with applicants who are waiting out weather constraints or other issues that slightly delay the process of getting the sidewalk installed. Mr. Klear explained that staff has had difficulty in recent past with getting sidewalks installed in the community of Makena Estates where a developer passed the responsibility on to several builders who in turn passed it on to the homeowners. It can be an issue. In terms of how many configurations can occur and the potential delays, Mr. Klear is concerned that the sidewalks will not be installed. Mr. Kramer stated that the issue with Makena Estates is that the homeowner didn't install his sidewalk. When he was approached, the homeowner said the neighbor across the street didn't have a sidewalk, why do I have to have one. It was explained to him that the community was required to have sidewalks down one side of the road. They went back through all the deeds and found out it was included in his deed that he had to install a sidewalk. At the end of the day, things pop up, but it was spelled out pretty clearly to those buyers. Ms. Minter advised both Mr. Kramer and Mr. Klear she appreciated the conversation on Makena Estates, but it played no bearing on tonight's discussion.

Mr. Klear stated that walkability was something that was very prominent for the first time this subdivision came up. Mr. Klear stressed it was still an important issue for this Commission to consider. Mr. Smith stated that in Kenton County the way they make sure they get the sidewalks completed is that they only issue a temporary certificate of occupancy until such time as the sidewalk goes in. Mr. Williams asked where we were with our discussions. Mr. Williams stated it looks to him like the nature trail seemed like a good idea in 2008, but no longer looks feasible. It looks like the trail to nowhere. Mr. Klear stated it looks like the applicant wants to go back to sidewalks on both sides of the street. It looks like the question is does the sidewalk have to be bonded or not. Mr. Verst stated it looks like to him that a clear decision needs to be made if they are going to get rid of the trail or not. Mr. Williams repeated that it looked like a good idea at the time it was proposed, but things haven't turned out at all like they anticipated, so it looks like it is unnecessary. Mr. Verst stated he kind of thinks it may be necessary. If lot 7 ends up being divided into twelve or fifteen lots at this point we just can't tell. But if it were to happen, the nature trail may be necessary again. Mr. Williams asked if they would have sidewalks. Mr. Verst said they would have sidewalks along one side as it is currently approved. The question is do you want to hold on to the trail in case lot 7 develops or just go back to standard sidewalks and not worry about it. Mr. Williams asked if there were any reasonable expectation that lot 7 might be further developed anytime in the foreseeable future. The economy isn't looking like it's getting much better. Ms. Minter stated that we could not predict that. Mr. Williams agreed. Mr. Williams stated the Commission should decide about what is in front of them today based upon the conditions of today.

Mr. Verst stated that the discussions for the nature trail came about somehow. Mr. Klear clarified that per the Subdivision Regulations sidewalks are required down both sides of the street. The applicant asked for the deviation from the Subdivision Regulations to specifically allow them to put in a nature trail and then only install sidewalks along one side of the street. Mr. Verst confirmed that this request was initiated by the applicant. Mr. Klear confirmed it was. Mr. Williams stated he understood what the general purpose of a bond was, but what was the purpose of a bond in this case. Mr. Klear stated a sidewalk is only effective if it is a continuous system. Mr. Klear pulled out the original plat that was previously submitted. Mr. Klear pointed out lots that were removed because they were transferred as land additions to others. This was originally a fairly substantial subdivision. If the sidewalks had been installed as part of the improvements, there would be a sidewalk all the way down to E. Nagel Road. These lots that are missing from this plat will leave gaps in the sidewalk. If this issue is not addressed at this time, by the time this development reaches the point that the sidewalks are being finished out, there will be no repercussion to cause the installation of sidewalks on these gaps of lots that are now missing from this preliminary plat. Mr. Verst wanted to clarify staff's concern is that those areas on the original plat would have a sidewalk installed if they had been recorded, but because the plat expired, there is nothing enforcing that the sidewalk would actually be one continuous sidewalk down to E. Nagel Road because they removed

portions of land from this new preliminary plat suggesting they would not be part of the actual subdivision. Mr. Klear agreed. Mr. Verst stated they couldn't enforce installing the sidewalks because they aren't part of the subdivision. Mr. Hutchinson stated the lots were part of the original preliminary plat and therefore part of the subdivision. Mr. Verst and Mr. Klear agreed though that because that plat expired and the lots were not on the new plat that those lots would not be considered part of the subdivision.

Mr. Barrow asked if the sidewalk would really only be on lots 2, 3, 4, 5, 6, 33 and 34. Mr. Verst and Mr. Klear both agreed that was correct. Mr. Pfeffer stated it was still better than a trail that led to nowhere. They are going to put the turn around in. Mr. Pfeffer stated if people are walking their dog, and they live in those eleven lots, they can go down to the turn around, cross over and go in a circle just using those sidewalks. Mr. Verst stated his bigger concern now is that part of that street is partly on property that is not on the new preliminary plat. Mr. Barrow asked if something did develop on the Philip & Joy Smith tract or the Jolly Nursery tract if the Commission could come back and require sidewalks at that time. Mr. Klear stated he wanted to defer to legal counsel at this point because Kensington Way is a street that the developer put in. The Subdivision Regulations called for sidewalks on both sides of the street. The applicant had a waiver so that sidewalks were only going to be required on one side of the street. Mr. Klear stated the question is if the waiver provision is removed does the sidewalk have to go on the other side as well. Mr. Klear did not prepare legal counsel to address a question like this tonight. It is Mr. Klear opinion that if the waiver is removed, the sidewalk would have to be installed down both sides of Kensington Way, but he cannot give a definitive answer tonight. Mr. Matt Smith asked Mr. Kramer to confirm that the applicant had previously stated he would build sidewalks down both sides of Kensington Way. Mr. Kramer confirmed that his client is prepared to put sidewalks in on both sides of Kensington Way all the way down to E. Nagel Road. Mr. Kramer clarified that Philip and Joy Smith are co-applicants and their property was not intentionally removed from the plat. The activity and changes were occurring at the top portion of the parcel specifically with lots 7, 8 and 9 so Mr. Kramer did not look at what was going on with the lower portion of the property. Mr. Kramer asked Mr. Klear if Philip and Joy Smith tried to build a home in the middle of their property if they would be excluded from building a sidewalk as thing stand today. Mr. Klear stated he didn't know legally how it would be determined. Mr. Klear thinks they will have to install a sidewalk, but he doesn't have the final answer.

Mr. Kramer stated his clients are willing to install the sidewalk on that property as well to prevent any confusion. Mr. Matt Smith stated that he thinks the sidewalk would have to be installed on both sides of the street as well. The applicant has made it a matter of public record by agreeing to do so. Mr. Matt Smith also advised the Commission that they could make it a condition of approval of this plat that the sidewalk be installed down both sides of Kensington Way all the way to E. Nagel Road and that would allow them assurance that the applicant would need to meet that condition. Mr. Klear stated that walkability is an important issue in Campbell County. Mr. Klear continued that sidewalks were problematic when you have a community with a subdivider who has multiple builders which is why he brought up the Makena reference. In a subdivision that is typical, it is easier to regulate and insure compliance, but this subdivision is not typical which is why he suggested the bond. Mr. Klear wants to make certain that the sidewalk is installed as promised.

Mr. Verst stated that as he understands it right now if the Commission were to approve this plat, Philip and Joy Smith would be required to install a sidewalk. The Commission is not relieving them of their responsibility to comply with the Subdivision Regulations requirement of a sidewalk. Mr. Matt Smith agreed. Based upon the representation on this plat, their representative's agreement on their behalf, and a condition issued down by this Commission, they would be obligated to install the sidewalk on their property. Mr. Matt Smith stated the only part that he is confused on is the terms of when the sidewalk is enforced to be installed and when is this Commission assured the conditions have been met. Mr. Matt Smith asked who issued the certificate of occupancies. Mr. Klear replied the Building Department issued certificate of occupancies. Mr. Kramer stated that currently that was the assurance. If the sidewalk was not installed, no certificate of occupancy was issued. Ms. Minter asked Mr. Kramer if he had any additional comments. Mr. Kramer stated he wanted to clear that his client is perfectly agreeable to

installing sidewalks down both sides of Kensington Way out to E. Nagel Road, but they are in no way agreeable to posting a bond to do so. Mr. Kramer stated that bonding sidewalks is not a common practice in Campbell, Kenton or Boone Counties in his experience. It just isn't done. A bond is not required by any other developer by the Subdivision Regulations for sidewalks and it would be punishing his client to require it of them.

Mr. Verst asked if the Philip and Joy Smith parcel was part of the subdivision or not. The Commission does not have authority to place conditions on property not owned by the applicant. Mr. Klear stated that the Philip and Joy Smith property was part of the previous plat but is not part of the current plat. Whether they are still considered part of the subdivision is the question that neither Mr. Klear nor Mr. Matt Smith can answer tonight since those parcels were not sold as stand alone parcels but rather through a series of land additions to adjoining property owners. Mr. Verst stated he understands that the applicant is being cooperative and stating they will put the sidewalks in on the Philip and Joy Smith parcel, but he wants to make certain the Commission has a legal ability to enforce the condition of requiring the sidewalk be installed should that parcel change property owners. Mr. Williams stated that Philip and Joy Smith could be required to install the sidewalk by refusing to release the certificate of occupancy if they do not comply. Mr. Klear stated he did not feel that was viable leverage because Philip and Joy Smith already have a house on the smaller lot they owned prior to performing all the land additions. Mr. Verst agreed in that situation where a house might never be built there would never be a precursor to cause that sidewalk to be built.

Mr. Hutchinson stated that the six lots that Philip and Joy Smith own were combined through a series of land additions. They already had a home on the lot where E. Nagel Road and US 27 meet. Those six lots were combined with that lot containing the home. Currently, it is an acreage lot with a house on it. Mr. Kramer interrupted at this point to clarify that the previous plat was not recorded so the six lots were never split from the original parcel. There was just one tract portioned off and submitted as a land addition to Philip and Joy Smith's existing property. Mr. Klear agreed with Mr. Kramer. Mr. Klear continued that regardless, sidewalks were a subdivision issue that we use withholding the final certificate of occupancy which is a building permit issue to enforce a subdivision issue. In this case, we don't have that hammer because the home already exists. We can't withhold a certificate of occupancy for Philip and Joy Smith's home because it has already been issued. Mr. Verst stated, from his experience as an engineer, the Commission should require the applicant to install that portion of the sidewalk immediately since there is no issue to delay them from doing so. Mr. Klear stated that the only reason he suggested the bonding was so that they could proceed with this now as opposed to waiting for the weather, etc. to put the sidewalk in.

Mr. Verst commented that the applicant didn't want to bond the sidewalks. Mr. Klear agreed. Mr. Verst continued that this was the time though to see that the issue of the sidewalks was addressed and resolved. Mr. Klear agreed again. Mr. Williams asked if the applicant's assurance on the record that he would install the sidewalk was sufficient. Ms. Minter stated that Philip and Joy Smith could sell the property tomorrow and there would be nothing to require that the sidewalk be installed. Mr. Kramer stated that if Philip and Joy Smith or even Smith and Jolly Nursery sold their properties, the new owner would have to come to come before this Commission to submit a new plat or to staff to request a zoning or building permit. Staff would have the opportunity at that time to enforce the sidewalk being installed. Mr. Matt Smith stated that the issue is that if Philip and Joy Smith or Smith and Jolly Nursery sold their entire property and not just the land additions, there are already houses on the properties and there still wouldn't be any indicator that the sidewalk was required to be built.

Mr. Kramer stated that the applicant was going to go back to the Subdivision Regulation requirement of putting sidewalks in on both sides of the street because they thought it would make it easier on the Commission to approve the plat. The applicant is willing to consider leaving the waiver in place so that sidewalks only go on one side of the street and the nature trail stays. Mr. Kramer stated the only reason the applicants considered changing to sidewalks on both sides of the street was because of the difference in opinion on the completion of the nature trail. Mr. Kramer stated all he had was the conditions from the

previous application, not the minutes of that Commission meeting. He cannot attest to what was said or promised at that time in terms of what the vision for the nature trail was supposed to be. The trail demarcation was installed and his client was under the impression that as long as the trail was mowed a natural trail was acceptable. As long as the Commission agrees with this interpretation and accepts the trails as is, his client has met the terms of the waiver previously granted and sidewalks will only need to be installed along one side of the street. Mr. Verst advised Mr. Kramer he is concerned not only with the status of the nature trail, but the fact that those lots were removed from this plat as well. Mr. Kramer pointed out that Mr. Jeff Smith who is partner in Smith and Jolly Nursery is here tonight and can speak on behalf of the property on the left. Mr. Kramer stated that Mr. Jeff Smith has already agreed that there will not be a gap in the sidewalk and that it will be continuous down to E. Nagel Road.

Mr. Klear and Mr. Hutchinson reviewed the originally submitted plat and stated that property was not included on the previously submitted preliminary plat. Mr. Smith asked if that meant there would be a gap in the sidewalk there. Mr. Klear stated he could not answer that question tonight. He would need to do additional research in order to properly advise the Commission any further on that issue. Mr. Kramer stated his whole point is that the owner of the property is present tonight and is willing to install the sidewalk. Mr. Verst stated that the Commission was previously able to trust the developer, trust the builder, and trust whomever that bought the lot. Mr. Klear agreed that it was a lot of gentlemen's agreements. Mr. Verst stated that the nature trail issue is separate from the sidewalk issue. Mr. Verst continued that he wants to make certain if the Commission were to agree to get rid of the trail and install the sidewalk on both sides of the street that the sidewalks would really be installed. Mr. Klear stated that would be staff's concern too and he doesn't think that would happen. Mr. Williams stated the issue then was how the Commission insures that the sidewalks would be installed. Mr. Klear agreed. Mr. Kramer emphasized that this is how subdivisions are created and are supported by how the Subdivision Regulations are written. This is the reason he has a real problem with the recommendation to bond the sidewalks. Ms. Minter thanked Mr. Kramer for his comments and advised he could be seated.

Mr. Matt Smith stated he believes an issue for the applicant as well is the fact that there was an integrated trail system that ran through the previously platted lots. Now, by virtue of allowing the other plat to expire and submitting this new plat with a trail that goes over only five lots, that brings back the issue with the nature trail being used in exchange for sidewalks on both sides of the streets is being disrupted. By allowing the plat to expire, the applicant has not provided a lot of assurance that the plat will be recorded and completed. Which brings us back to the prior issue of having the previous plat expire, how did the Commission get any assurance that the sidewalk and nature trail would be installed. Mr. Matt Smith asked what would be the dollar amount to install the sidewalks down both sides of Kensington Way. Mr. Kramer stated he did not have an exact dollar amount but it would be tens of thousands of dollars. Mr. Verst stated he could not give an estimate off the top of his head.

Mr. Hutchinson and Mr. Kramer stated that after a review of the original plans it looks as if the sidewalk was to be installed along the right hand side of Kensington Way. Ms. Minter asked Mr. Kramer if he knew a dollar amount for the installation of the sidewalks. Mr. Kramer stated he did not have a definitive amount. Mr. Stubbs asked Mr. Kramer if the sidewalk is on the right side of Kensington Way who puts in Mr. Terrence Markus's sidewalk. Is he compelled to install a sidewalk because the sidewalk never reaches all the way out to E. Nagel Road anyway? Mr. Kramer stated that he thinks while this plat shows the sidewalk is on the right side of Kensington Way, he believes when it came time to prepare the actual construction drawings that they put the sidewalk on the left side of Kensington Way so they could avoid Mr. Markus's property altogether. They placed the entry sign on the left side of the road and had to place a sidewalk in front of the sign. We decided to just follow that design all the way up.

Mr. Verst went back to Mr. Matt Smith's question on an estimate to install the sidewalks on Kensington Way. Mr. Verst stated that, according to his calculations, in order to go from E. Nagel Road up to lot 2 will cost the applicant approximately \$25,000. Mr. Matt Smith asked Mr. Kramer when they anticipate sidewalks going in on those sites. Mr. Kramer stated they don't because it is a home builder driven activity. When the lot gets sold and the house gets built, that is when the sidewalk will be installed. Mr.

Matt Smith stated he was uncertain what the bond amount would be for \$25,000. Basically, the Commission would want an indefinite bond until the sidewalks are complete.

Ms. Minter summed up the issues that she sees as being prevalent at the moment being: 1) does the Commission vote to keep the trail or to get rid of the trail; 2) if you decide to allow for sidewalks on both sides of Kensington Way, then what assurance do we put in play to make sure it will happen and that are reasonable; or 3) if you decide to keep the trail, which is very short and basically going to nowhere, the trail status of completion needs to be determined. Ms. Minter asked if she left anything out. Mr. Klear stated that, if they determine to keep the trail, they will need to discuss what type of trail are you requesting to see installed. Ms. Minter agreed. Mr. Klear stated the applicant's interpretation is that the trail is in and complete as a mowed, marked path. They are completely satisfied. Staff's opinion is that the trail is not complete because we expected mulch or something. We didn't expect it to be paved, but we expected it to be more than the grass that is there.

Ms. Minter asked for comments from the Commissioners. Mr. Barrow stated his general opinion is that the trail is gone and his primary concern is on what we do to make sure the sidewalks get installed. Mr. Pfeffer agrees that the trails should be gone, but, as far as the sidewalk is concerned, he thinks we should just follow the Subdivision Regulations as they are today. Mr. Pfeffer stated the Commission is being told that bonding is not a normal part of the Subdivision Regulations. Mr. Klear stated that the Subdivision Regulations specify the installation of sidewalks. Unfortunately, our current Regulations are somewhat loose. As a matter of practice, we have delayed or deferred the installation of that sidewalk until such time as the house is complete; however, the sidewalk is a subdivision issue not a zoning issue or building permits issue. The applicant is saying that bonding is not spelled out in the Subdivision Regulations. That is correct because the requirements of the Subdivision Regulations go in now. There is no bonding. The improvements go in now as part of the platting process. As a matter of practice, we defer that element though.

Ms. Minter asked Mr. Verst for his comments. Mr. Verst asked the Commissioners to look at the preliminary plat. It had originally been agreed to allow the applicant to put the trail in and only put the sidewalk in on one side of the street. The trail starts on lot 2 not on E. Nagel Road. What the Commission had approved was a sidewalk on one side from E. Nagel Road up to lot 2. Mr. Verst asked Mr. Klear to confirm. Mr. Klear agreed saying that the sidewalk from E. Nagel Road up to lot 2 was not explicitly spelled out, but implied. Mr. Verst continued saying that the Commission allowed the applicant a trail on one side of the street, but the trail started at lot 2, which means that the first 1,000 feet of street had sidewalk on one side without a trail on the other side. Looking at what the subdivision may become, does it make sense to just have a sidewalk on one side of the road from E. Nagel Road up to lot 2 and then let there be sidewalks on both sides of the street where the subdivision actually exists and where people's houses are? Mr. Verst asked what the other Commissioners thought of that suggestion. The parcels within the first 1,000 feet would be in their own little world in a way. If people decide to further subdivide up front, we can add further sidewalks at that time. Mr. Verst stated he would be more inclined to say make them have a sidewalk on only one side of the street for the first 1,000 feet and then on both sides of the street from lot 2 to the turn around. Mr. Verst suggested you could have the 1,000 feet bonded to insure the sidewalks go in. Ms. Minter stated that sounded very reasonable. Mr. Matt Smith asked if the applicant would be interested in a compromise of that nature. Mr. Pfeffer asked why you would ask that the first 1,000 feet be bonded when nothing has happen there now. Who is to say those lots are going to be built on? Mr. Verst replied that if those lots are not developed then they are going to be installing those sidewalks in order to get the bond released. Mr. Pfeffer asked if the first 1,000 feet were critical then why wasn't it required to be bonded when the previous plat was submitted to the Commission. Mr. Verst replied that originally there were additional lots up front that would have contained homes on them. Mr. Pfeffer stated he understood that. Mr. Verst stated that prior to 2007, if someone came in with a preliminary plat it was a safe bet that within three to five years those lots were going to be built upon; however, since the market stalled out in 2007, the lots are just sitting there. Mr. Verst said he just thinks we are, in general, a lot less optimistic that those lots are going to be selling. We had it on good faith that the improvements would be made and made timely, and we just don't have that

now. Mr. Williams asked if the applicant is willing to bond only the first 1,000 feet. Ms. Minter stated we could ask the applicant.

Mr. Kramer conferred with his clients regarding this issue. Mr. Kramer asked for clarification that the bonding was for sidewalks on the left side in front of lot 1 and what is identified as Smith and Jolly Nursery only. Ms. Minter confirmed that was correct. Mr. Kramer asked if the purpose of the bonding was because those lots were no longer in the applicant's control right now. Mr. Verst asked if lot 1 was part of the subdivision. Mr. Kramer stated that it was. Mr. Klear stated he didn't know what lot 1 was as there was no lot 1 on the new plat. Mr. Hutchinson pointed out a lot on Mr. Klear's plat. Mr. Klear stated the lot was labeled as lot 41. Mr. Verst asked if lot 1 was platted. Mr. Klear stated that according to the original plat what is currently labeled as lot 41 was listed as lot 1. Mr. Kramer stated that was correct. Mr. Verst asked if lot 1 was platted and part of the Kings Run Subdivision. Mr. Kramer stated that was correct. Mr. Verst asked if they could enforce the sidewalk on that lot. Mr. Kramer stated the lot was sold, but has not been built upon. Mr. Williams stated the sidewalk was started on that lot. Mr. Jeff Smith stated that the lot has been sold, the house has not been built, but the owner has been told that the sidewalk must go in on that side of the road. Mr. Matt Smith asked him to confirm again that the house has not even started. Mr. Jeff Smith stated that the house has not begun in any fashion.

Mr. Matt Smith stated he could not speak for Campbell County, but in Kenton County, as long as the home has not begun, the Building Department can withhold the final certificate of occupancy on that lot until the sidewalk is completed. Mr. Hutchinson stated that if that lot is not part of the subdivision then it wouldn't have the requirement of the sidewalk. Mr. Klear stated that under the original scheme there were lots that did not have improvements on them so there was the reasonable expectation that the current practice of holding onto the certificate of occupancy until the sidewalk was installed would be sufficient. With this new configuration, there is no expectation that we can withhold the final certificate of occupancy for that stretch. We would have no hammer to enforce the installation of sidewalks from E. Nagel Road up to lot 2 or lot 34. Mr. Verst asked why we don't have lot 1 any longer on our plat. Mr. Klear stated because it was transferred as a land addition to an adjoining property owner. Mr. Kramer stated that was not correct. Lot 1 was recorded as King Run Subdivision Section 1. Mr. Klear stated he is just going by what is reflected on his drawing.

Mr. Pfeffer stated he was confused because Mr. Kramer is stating that the first lot on the left was platted and recorded which seems to be a twist upon what was being said earlier this evening. This is new information. Ms. Minter agreed that it was new information. Mr. Pfeffer stated he wanted to repeat this new information. The first lot on the left (at which Ms. Minter interrupted to state the lot was identified as parcel C) identified as parcel C on our copy of the map has been recorded and is part of the subdivision and can be held to the subdivision requirement of installing a sidewalk. Mr. Klear stated parcel C is actually 2 parcels. Mr. Hutchinson added that the faint line they see is the general line of the lot that was sold. Mr. Kramer pointed out on Mr. Hutchinson's large projected slide the lot on the left hand side which was previously recorded and identified it as part of the subdivision. There is no house built on that lot. Mr. Verst stated that there is a reasonable expectation then that when that house is built on that lot that a sidewalk will be installed prior to the issuance of the certificate of occupancy. Mr. Kramer agreed.

Mr. Pfeffer asked if the sidewalk is installed down to E. Nagel Road. Where is the sidewalk supposed to go? Mr. Stubbs added that you could barely drive on E. Nagel Road let alone walk on it. Mr. Pfeffer asked if there were any sidewalks on E. Nagel Road. Ms. Minter stated there weren't a lot of sidewalks in this area of Campbell County. As a resident of that area, they would like some, but there aren't many in place at this point. Mr. Pfeffer stated, if the Commission is sitting there thinking of requiring a bond and there are no houses there at all, why worry about the sidewalk? Wait until the houses are built and then install the sidewalks. Mr. Stubbs agreed that the sidewalks should be delayed until the houses are built. Mr. Pfeffer continued it seems practical to him and the sidewalks aren't going anywhere anyway. Mr. Pfeffer is leaning towards the applicant's view that a bond shouldn't be required and we just trust them to put in the sidewalks as soon as the house is built. Mr. Matt Smith stated it was because there is no assurance that the applicant will comply. Mr. Klear stated that staff has no confidence that the applicant

will follow through with his promises. Mr. Pfeffer stated that if the confidence has been in this County that the sidewalks will not be put in until the house is complete then that should apply in this situation as well. Mr. Klear stated that is the way it was before the economy tanked. Mr. Pfeffer stated this is the way we allowed it in 2008 and the applicant hasn't sold a lot so why in the world we force sidewalks until we get a house. Mr. Verst stated that the discussion that the Commission has been having thus far, in his opinion, is that if it is within the subdivision, we have a mechanism to enforce that sidewalk going in. This Smith and Jolly Nurseries' parcel, which may not be in the subdivision, we do not have the authority over to enforce a sidewalk so make the applicant post a bond to assure us that the sidewalk will be placed on that section of the street. Mr. Klear clarified it wasn't that the Commission does not have the authority it's just that it is ambiguous. Mr. Pfeffer stated that even if you wanted to force it on Smith and Jolly Nurseries, the sidewalk is only going to E. Nagel Road. Mr. Pfeffer believes it is better served to have the sidewalk where those seven lots are and they have their own community. Mr. Verst stated that the Comprehensive Plan tells us we want to have connectivity and walkability in Campbell County. The next thing you know there is going to be further development in that area and then there will be a corner store and someone is going to want to walk there. Mr. Verst stated if we have the ability to put sidewalks in it appears to be a good opportunity for Campbell County.

Mr. Matt Smith wanted to return to a suggestion that Mr. Verst had made and which we never got to hear the applicant's response to. It appears in this situation it may actually make a lot of sense. Mr. Verst's suggestion was to have sidewalks on one side of Kensington Way up until you reach lots 2 and 34 at which point you would require sidewalks on both sides of Kensington Way thereby eliminating half of the area that the applicant was previously in agreement of putting sidewalks on both sides of the street. Given that reduced amount of sidewalk, the applicant could post a bond for this portion is only on one side of the street. Mr. Matt Smith asked if this would be agreeable to the applicant. Mr. Kramer stated it would not because he feels the bond is just wrong and not fair. Mr. Kramer stated they do not bond sidewalks in Kenton or Boone Counties and he can't justify doing it in Campbell. Mr. Verst stated that he has seen, not specifically a bond, but a requirement, that if you have a parcel that is not in your subdivision and you were required to put a sidewalk in that the county will say for that final plat to be recorded you will have to post a bond based on a part of the final plat in order to record it. Mr. Kramer stated that, as far as the first lot owned by Mr. Gary Jolly is concerned, a sidewalk will be put in on that site. Mr. Kramer understands you can't just take his word for it, but his client is willing to get a written statement or affidavit from the owner attesting to the fact that a sidewalk will be installed once the house is built. At that point, it becomes equal to all the other homes on Kensington Way. Ms. Minter notified Mr. Kramer that his clients wanted to confer with him.

Mr. Williams asked if we could take a brief recess. Mr. Klear, Mr. Verst, Mr. Pfeffer all agreed a recess was in order. Ms. Minter called for a 5 minute recess at 8:35 PM. Ms. Minter called the meeting back into order at 8:50 PM and thanked everyone for their patience as the break lasted a little longer than announced.

Ms. Minter recognized Mr. Klear. Mr. Klear announced that, on behalf of the staff and applicant, we are going to revise what has been previously discussed. Mr. Klear stated that a solution has been agreed upon consisting of the following items:

- 1) Sidewalks will be required on both sides of Kensington Way from lot 7 to approximately the terminus of lots 2 and 34.
- 2) A sidewalk will be required on only one side of Kensington Way from lot 2 to E. Nagel Road and it will be on the north/west side of the street.
- 3) The applicant will submit a revised plat which will show graphically the sidewalk on both sides of Kensington Way from lot 7 to lots 2 and 34 and on only one side of Kensington Way from lot 2 to E. Nagel Road on the north/west side. The plat will include the appropriate language to insure that in the future that sidewalk will be installed.

- 4) No bond will be required of the applicant for the sidewalks.
- 5) The applicant will leave in place the nature trail in its current state, all markers and the easements pertaining to the nature trail.
- 6) If Commission is agreeable with items 1 through 5 above, since the Subdivision Regulations require sidewalks on both sides of the street, you will have to make some kind of findings that will allow for the waiver of sidewalks on the south/east side of Kensington Way.

Mr. Klear asked Mr. Kramer if he missed any items they had discussed. Mr. Kramer added that the applicant agreed the revised drawing will include the Smith and Jolly Nurseries parcels back onto the final plat so that staff has future authority to require a sidewalk be installed. Ms. Minter asked if there were any discussion. Mr. Bass asked Mr. Klear what kind of findings would have to be made in order to consider a waiver of the sidewalks on the south/east side of Kensington Way. Before Mr. Klear could answer Mr. Bass's question, Mr. Matt Smith asked if the applicant was fully in agreement with the proposal made by staff. Ms. Minter asked Mr. Kramer to confirm his client's position. Mr. Kramer agreed that he and his client were in full agreement with the proposal made by Mr. Klear.

Mr. Klear answered Mr. Bass question by explaining that the Subdivision Regulations require sidewalks on both sides of the street. For the prior preliminary plat, the Commission waived this requirement and accepted in its place sidewalks along one side of the street with the nature trail running along the opposite side of the street. That preliminary plat expired so it is gone. We are back to what our current Regulations require with sidewalks along both sides again. Mr. Matt Smith clarified that Mr. Klear is stated the previous waiver expired with the previous plat and a new waiver must be granted by the Commission. Mr. Klear agreed it would clarify issues. Mr. Matt Smith stated that you could find that waiver was necessary based upon unique and innovative nature of the design of the subdivision. Mr. Klear stated that would be acceptable. Mr. Verst asked if they could use a finding of based on the previous conditions and waiver on the site. Mr. Klear stated possibly. Mr. Pfeffer stated that the previous condition was based on the applicant putting in a nature trail. Mr. Klear stated that was the way they made the leap to "innovative" design. Mr. Verst stated that was also why the nature trail stays the way it is and staff just lowers their expectations because it really wasn't spelled out what the trail would be made of, staff will lower their expectations and the Commission is going to say the mowed path is an acceptable nature trail. The trail remains though. Mr. Klear agreed the trail remains and staff will accept it as "completed". Mr. Bass stated if you have the trail, then you have the amenity. Mr. Bass asked if you said before if you had the trail on one side they would only need sidewalks on one side, so if they have the trail then they can have the sidewalk on only one side. Mr. Matt Smith agreed and stated it seems we all agree and are just stating it differently. Mr. Pfeffer asked why we needed the trail. Mr. Matt Smith answered so they could have the sidewalk on only one side of the street. Mr. Pfeffer stated he understood that, but why are we requiring the nature trail. Mr. Klear stated we are not requiring the nature trail, but the applicant is proposing to leave the markers and leave the easement in place.

Ms. Minter asked if there were any other discussion on this issue. There being none, Ms. Minter asked if the Commission desired to make a motion. Mr. Verst stated he was working on one but needed a little more time. Mr. Klear stated that, to allow Mr. Verst the time he needed, the Commission should review the conditions recommended in the staff report. Mr. Klear summarized that the applicant is in agreement with conditions 1 and 2. The applicant agrees with condition 4 as long as it can be bonded which staff agreed could be. Condition 3 is gone as it was written and we need to come up with a new condition or set of conditions to address what we have discussed tonight.

Mr. Verst asked the Commission to think about his language prior to making his motion. Mr. Verst suggests that condition 3 be rewritten to state: "That the walking trail in Kings Run Subdivision Section 1 may remain as an unimproved though cleared or mowed path." Ms. Minter stated that the trail is identified as a "nature trail" on the plat. Mr. Verst changed "walking trail" to "nature/walking trail" and

added “with the existing trail markers and easement.” The Commission agreed that was appropriate. Mr. Verst stated next he would add a condition 5 that states: “Sidewalks be installed on both sides of Kensington Way from the west side of lots 2 and 34 to the terminus of the street and that sidewalks be installed on the north/west side only from lot 2 to E. Nagel Road.” Mr. Klear suggested starting the condition with “The applicant submit a revised plat showing...” Mr. Verst stated he actually had a condition 6 that would state: “The applicant submit a revised preliminary plat to include the parcel identified as Smith and Jolly Nurseries and the changes listed above.” Mr. Klear asked Mr. Verst to read his conditions again. He thinks they are saying the same thing, but feels like something may be missing. Ms. Minter reread the conditions. Mr. Klear stated the word “installed” implies the work will be done immediately and that is not what the applicant wants. Mr. Verst suggested the word “indicated”. Mr. Klear agreed that would be much more appropriate since the applicant does not want to put that in immediately and will not post a bond. Mr. Kramer asked Mr. Klear and Mr. Verst to confirm that in condition 6 the Smith and Jolly Nurseries parcel is being reflected on the “preliminary” plat and not the “final” plat because he doesn’t want to re-plate that lot if he doesn’t really have to. Mr. Klear confirmed it would be reflected on the revised preliminary plat only. He just wants to show the sidewalks on the plat. Mr. Verst stated he thinks he’s ready to make a motion and Mr. Matt Smith reminded him to make a finding for the basis of the waiver for sidewalks along only one side of the street. Mr. Klear stated it would have to be due to topographic, geographic, innovative design or extenuating circumstances.

Mr. Verst made a motion to approve case #37-12-PPD-04, submitted by Smith Morgan Jolly Properties, a revised preliminary plat for the Kings Run Subdivision, subject to the following conditions:

1. That driveway spacing requirements be followed along State Route 154.
2. That the setback dimensions for the existing structures on Lot #8 be shown on a revised drawing.
3. That the nature/walking trail in Kings Run Subdivision, Section 1 may remain as an unimproved though cleared/mowed path with the existing trail markers and easement in place.
4. That the subdividers install an appropriate turnaround at the end of Kensington Drive. The design shall be submitted to staff for review and approval prior to installation. The design shall maintain a 50’ wide right-of-way.
5. That sidewalks will be shown on a revised preliminary plat on both sides of Kensington Way from the west side of existing lots 2 and 34 to the terminus of the street. That a sidewalk will be shown on a revised preliminary plat on the north/west side of Kensington Way from E. Nagel Road to the west side of lot 2.
6. That the applicant revise the preliminary plat to include the property identified as Smith and Jolly Nursery, parcel D, to be part of Kings Run Subdivision.

Mr. Bass asked for a clarification if the “west side of lot 2” in condition 5 second sentence should read “east side”. Mr. Klear confirmed that Mr. Verst was correct in his motion. It is the west side of the road but to the east side of lot 2. Ms. Minter asked if condition 6 was specific enough as to which parcel was being referenced. Mr. Verst stated he amended condition 6 to read:

6. That the applicant revise the preliminary plat to include the property identified as Smith and Jolly Nursery, parcel D, to be part of Kings Run Subdivision and to clearly identify the existing lot 1 of Kings Run Subdivision.

Mr. Matt Smith asked Mr. Verst what his findings of fact were. Mr. Verst stated that the bases for his motion are findings of fact listed in the staff report and also that the combination of the sidewalk as recommended in his conditions and the nature trail provided for an innovative use of the land and pedestrian access from this subdivision to existing properties. Mr. Klear clarified that this findings of fact was the bases for the waiver of the sidewalk for the first part of the subdivision. Mr. Verst declared that was correct. Mr. Klear showed the Commission a highlighted plat indicating where the sidewalks are to be indicated based upon the motion just made by Mr. Verst. Ms. Minter asked if there were any comments or a second on the motion. Mr. Barrow seconded the motion. A roll call vote found Mr.

Barrow, Mr. Bass, Mr. Pfeffer, Mr. Stubbs, Mr. Williams and Mr. Verst in favor of the motion. Ms. Minter abstained. Motion passed.

There being no other cases to come before the Planning Commission, Ms. Minter requested that Mr. Klear present his Director's Report.

DIRECTOR'S REPORT

Mr. Klear advised the Commission that KRS specifies that, when you have a vacancy on either the Commission or the Board of Adjustment, it is up to the legislative body to make an appointment to fill that vacancy. When they cannot do so within a specific amount of time, it becomes the responsibility of the Commission to make an appointment to fill that vacancy. We have a vacancy on the Campbell County & Municipal Board of Adjustments. Mr. Klear is requesting that the Commission appoint Mr. Mike Williams to fill the vacancy on the Board for the City of Melbourne. The details are listed in the Director's Report that was sent out with your packets. Ms. Minter asked Mr. Williams if he was interested in filling that vacancy. Mr. Williams agreed he was interested in serving. Ms. Minter asked Mr. Klear if a motion needed to be made to that effect. Mr. Klear stated a motion, second and roll call vote would be required. Ms. Minter called for a motion. Mr. Barrow made a motion to appoint Mr. Williams to the Board of Adjustments. Mr. Stubbs seconded the motion. A roll call vote found Mr. Barrow, Mr. Bass, Mr. Pfeffer, Mr. Stubbs and Mr. Verst in favor of the motion. Mr. Williams and Ms. Minter abstained. Motion passed. Mr. Verst thanked Mr. Williams for serving on the Board as they are always looking for dedicated members to serve.

Mr. Klear advised the Commission that the storms that occurred on March 2nd had a devastating effect on some families on our community and staff thoughts and prayers go out to the affected families. A member of our team, Mr. Mark Brant, Building Inspector, went out and helped with the assessment of the damages not only in Campbell County, but in Pendleton County as well. As a way to help ease the burden, our office is not charging building permit fees for those families affected by the storm damage.

Mr. Klear and Ms. Minter asked Mr. Verst if there was anything he wanted to share with the Commission. Ms. Minter announced that the Commission has the honor of having Mr. Justin Verst who was appointed as the Kentucky Society of Professional Engineers 2012 Engineer of the Year. All the Commissioners wished Mr. Verst well wishes on this great accomplishment and honor.

Ms. Minter asked if there was any other business to discuss. There being none, Ms. Minter asked for a motion to adjourn. Mr. Verst made a motion to adjourn. Mr. Barrow seconded the motion. An oral vote found everyone in favor, none opposed. Motion passed. Meeting adjourned at 9:18 PM.

Respectfully Submitted,

Approved:



Peter J. Klear, AICP
Director of P&Z



Cynthia Minter
Chair